CHAPTER VIII

EXEMPTIONS

Most of the tenancy enactments provide for exempting certain lands from specified provisions of the law. The exemptions allowed by the Bombay Tenancy and Agricultural Lands Act are as follows:-

Leases of lands granted to industrial or commercial undertakings are exempted from the provisions relating to the duration of tenancy, rent, resumption, conferment of ownership on tenants, ceilings and the restrictions on transfers. The provisions relating to conferment of ownership on tenants do not also apply to lands within municipal areas. Only the provisions relating to tenure and rent apply to lands held or leased by local authorities and universities and to lands belonging to an educational trust, hospital or an institution for public religious worship.

Lands belonging to or held on lease from Government do not at all come within the purview of the Act.

The Hyderabad Tenancy and Agricultural Lands Act of 1950 does not apply to -

(a) lands leased, granted, alienated or acquired in favour of or by the Government, a local authority or a co-operative society;

(b) lands held on lease for the benefit of an industrial or commercial undertaking;

(c) service Inam lands; and

(d) Inams held by religious or charitable institutions.

Only lands belonging to or held on lease from the State Government or the Central Government, a local authority or a cooperative society are exempt from the provisions of the Mysore Tenancy Act, 1952.

All the three Acts empower Government to notify any area as reserved for urban, non-agricultural or industrial development and the Acts do not apply to areas so notified.

2. We are of the definite view that the provisions regarding the quantum of rent should apply in all cases where land is leased out. Even leases by or from Government and leases of service inam lands and other inams should conform to the provisions regarding rent. We have examined whether there is any need to exempt lands leased by local authorities, universities, educational, religious and charitable trusts and institutions from any of the provisions of the tenancy law. In our opinion exemptions from the provisions conferring ownership on tenants would be justified only in respect of lands leased by or to local authorities. These lands are generally intended for works relating to sanitation, public health etc., and it is necessary for the local authority to retain full rights over them. Universities, educational trusts and institutions, and religious and charitable trusts and institutions stand on a different footing. These do not directly carry on any activity on the land and hold the land merely as a source of income. The tenants of these lands should not, in our opinion, be treated differently from other tenants. After careful consideration of all aspects of the question we are of the view that the tenants of lands belonging to these bodies, trusts or institutions should be permitted to acquire ownership rights. The price payable by such tenants should be fifteen times the normal net income the instituion would get from the land. The normal net income will be equal to the fair rent of the land less ~~the~~ land revenue and other Government dues. The price will be payable either in a lump sum or in 20 equated annual instalments with interest ~~with~~ at 4½ per cent. The total annual payment by the tenant will not thus exceed the fair rent appreciably, and the tenant will get full ownership by merely paying a little over the fair rent for 20 years.

For the purposes of this chapter, religious institutions will include all places of public worship or religious teaching such as temples, mosques and dargas, churches, gurudwaras, mutts etc. ~~allowed in respect of ordinary transferable lands. In the~~

3. We have also examined how best to secure for these institutions a level of income approximating to that which they would get had the lands continued to be leased. The net income would have been equal to the fair rent minus land revenue and other Government dues. In order to secure continuity of the income to them, we suggest that Government may issue non-redeemable and non-negotiable bonds with face value equal to the compensation recovered from the tenants. Repayment in part or in full may be made only if the trustees obtain sanction of the competent court to utilise the ~~compensation~~ corpus and to the extent ordered by the Court. We would also suggest that in view of the fact that the income would be utilised for religious, charitable or educational purposes, these bonds may carry a rate of interest slightly higher than the rate allowed in respect of ordinary redeemable bonds. In the former State of Mysore, perpetual deposits were accepted for educational and charitable purposes and the interest allowed on such endowment deposits was 1/2% more than the rate of interest on Government securities. The rate at which Government is borrowing now comes to 4.38% and we would suggest interest being paid at 5% on these bonds. This would ensure to these institutions ~~them~~ 75% of the income which would have been got if the leases had continued.

4. The provisions of section 43 A of the Bombay Act may be incorporated in the new Act with the following modifications:-

(1) The provisions regarding rent should apply in these cases also.

(2) Clause (b) should refer only to leases of land granted to any bodies or persons other than those mentioned in clause (a) for the raising of fruit or flower trees, or plantation of fuel trees, or for the breeding of live-stock.

5. In view of the fact that lands within municipal limits possess a potential value for non-agricultural and industrial use several times higher than their value as agricultural land, it would not be correct to confer ownership rights on tenants in respect of such lands. The provisions regarding transfer of ownership to tenants should not therefore apply to such lands. The new law may contain provisions similar to sections 43 C and 43 D of Bombay Act.

6. Except with regard to the quantum of rent, the tenancy law need not apply to lands belonging to or held on lease from Government.

7. The power of Government to notify any area as reserved for urban, non-agricultural or industrial development and exempted from the provisions of the Tenancy Law may also be adopted.